

CHAPTER 6
APPEALS**401—6.1(18) Definitions.**

“*Administrative law judge (ALJ)*” means the person who presides over contested cases and other proceedings.

“*Agency*” means the agency as defined in Iowa Code subsection 17A.2(1) which has original subject matter jurisdiction in the contested case.

“*Department*” means the department of general services (DGS).

“*Division*” means the division of appeals and fair hearings in the department of inspections and appeals.

“*Ex parte*” means a communication, oral or written, to an ALJ or other decision maker in a contested case without notice and an opportunity for all parties to be heard.

“*Filing*” is defined in rule 6.12(18) except where otherwise specifically defined by law.

“*Issuance*” means the date of mailing of a decision or order or date of delivery if service is by other means.

“*Party*” means a party as defined in Iowa Code subsection 17A.2(5).

“*Proposed decision*” means the administrative law judge’s recommended findings of fact, conclusions of law, and decision and order in contested cases where the agency did not preside.

401—6.2(18) Time requirements. Time shall be computed as provided in Iowa Code subsection 4.1(22). For good cause, the administrative law judge may extend or shorten the time to take any action, except as provided otherwise by rule or law.

401—6.3(18) Requests for a contested case hearing. Requests for a contested case hearing are made to the agency with subject matter jurisdiction. That agency shall determine whether to initiate a contested case proceeding.

401—6.4(18) Transmission of contested cases.

6.4(1) In every proceeding filed with the division, the agency shall complete a transmittal form. The following information is required:

- a. The name of the transmitting agency;
- b. The name, address and telephone number of the contact person in the transmitting agency;
- c. The name or title of the proceeding, which may include a file number;
- d. Any agency docket or reference number;
- e. A citation to the jurisdictional authority of the agency regarding the matter in controversy;
- f. Any anticipated special features or requirements which may affect the hearing;
- g. Whether the hearing should be held in person or by telephone conference call;
- h. Any special legal or technical expertise needed to resolve the issues in the case;
- i. The names and addresses of all parties and their attorneys or other representatives;
- j. The date the request for a contested case hearing was received by the agency;
- k. A statement of the issues involved and a reference to statutes and rules involved;
- l. Any mandatory time limits that apply to the processing of the case;
- m. Earliest appropriate hearing date; and
- n. Whether a petition or answer is required.

6.4(2) The agency and the department determine by agreement whether the agency or the department shall issue the notice of hearing.

a. If agreed by the agency and the department, the agency shall attach a notice of hearing to the transmittal form.

b. If the division by agreement issues the notice of hearing, the agency must provide the information required by Iowa Code section 17A.12(2) (except for the date, time and place of the hearing) for inclusion in the notice.

c. The agency, and not the division, shall prepare:

- (1) The citation to the jurisdictional authority of the agency regarding the matter in controversy;
- (2) A statement of the issues involved;
- (3) A reference to statutes and rules involved; and
- (4) The remaining information required by the transmittal form as stated in subrule 6.4(1).

6.4(3) The following documents shall be attached to the completed transmittal form when it is sent to the division:

a. A copy of the document showing the agency action in controversy; and

b. A copy of any document requesting a contested case hearing.

6.4(4) When a properly transmitted case is received, it is marked with the date of receipt by the division. An identifying number shall be assigned to each contested case upon receipt.

401—6.5(18) Notices of hearing.

6.5(1) Responsibility for issuance of notice of hearing and the manner of service shall be resolved by agreement between the division and the transmitting agency.

6.5(2) Notices of hearing shall contain the information required by Iowa Code subsection 17A.12(2) and any additional information required by statute or rule. Notices shall be served by first-class mail, unless otherwise required by statute or rule, or agreed pursuant to subrule 6.5(1).

401—6.6(18) Waiver of procedures. Unless otherwise precluded, the parties in a contested case may waive any provision of this chapter pursuant to Iowa Code section 17A.10.

401—6.7(18) Telephone proceedings. A prehearing conference or a hearing may be held by telephone conference call pursuant to a notice of hearing or an order of the ALJ. The division shall determine the location of the parties and witnesses in telephone hearings. The convenience of the witnesses or parties, as well as the nature of the case, shall be considered when location is chosen.

401—6.8(18) Scheduling. Contested case hearings are scheduled according to the following criteria:

6.8(1) *Agency hearings.* The division shall promptly schedule hearings. The availability of an administrative law judge and any special circumstances shall be considered.

6.8(2) *Board hearings.* Boards are requested to consult with the division prior to scheduling hearings to determine the availability of an administrative law judge. The board shall determine the time and place of hearing.

401—6.9(18) Disqualification.

6.9(1) An administrative law judge shall withdraw from contested cases for lack of impartiality or other legally sufficient cause including, but not limited to, cases where:

a. The ALJ has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the case;

b. The ALJ has prosecuted or advocated in connection with the case, the specific controversy underlying the case, or another pending factually related contested case or pending factually related controversy that may culminate in a contested case involving the same parties;

c. A private party is a client or has been a client of the ALJ within the past two years;

d. The ALJ has a financial interest in the case or any other interest that could be substantially affected by the outcome of the case; or

e. The ALJ, the ALJ's spouse, or relative within the third degree of relationship:

- (1) Is a party to the case or an officer, director or trustee of a party;

- (2) Is a lawyer in the case;
- (3) Is known by the ALJ to have an interest that could be substantially affected by the outcome of the case; or
- (4) Is to the ALJ's knowledge likely to be a material witness in the case.

6.9(2) If an ALJ does not withdraw, the ALJ shall disclose on the record any information relevant to the grounds listed in subrule 6.9(1).

6.9(3) If a party asserts disqualification on any appropriate ground, including those listed in subrule 6.9(1), the party shall file an affidavit pursuant to Iowa Code subsection 17A.17(4). The affidavit must be filed with the division within 15 days of the date of the notice of hearing, or as soon as the reason alleged in the affidavit becomes known to the party, but in any case shall be filed prior to the hearing.

401—6.10(18) Consolidation—severance.

6.10(1) Consolidation. The administrative law judge may, upon motion by any party or the ALJ's own motion, consolidate any or all matters at issue in two or more proceedings docketed under these rules where:

- a. There exist common parties or common questions of fact or law;
- b. Consolidation would expedite and simplify consideration of the issues; and
- c. Consolidation would not adversely affect the rights of parties engaged in otherwise separate proceedings.

At any time prior to the hearing, any party may on motion request that the matters not be consolidated, and the motion shall be granted for good cause shown.

6.10(2) Severance. The administrative law judge may, upon motion by any party or upon the ALJ's own motion, for good cause shown, order any proceeding or portion thereof severed.

401—6.11(18) Pleadings. Pleadings may be required by the notice of hearing or by order of the administrative law judge. If pleadings are required, they shall be filed as follows:

6.11(1) Petition. When an action of the agency is appealed and pleadings are required under subrule 6.10(1), the aggrieved party shall file the petition.

- a. Any required petition shall be filed within 20 days of delivery of the notice of hearing, unless otherwise ordered.
- b. The petition shall state in separately numbered paragraphs the following:
 - (1) The relief demanded and the facts and law relied upon for relief;
 - (2) The particular provisions of the statutes and rules involved;
 - (3) On whose behalf the petition is filed; and
 - (4) The name, address and telephone number of the petitioner and the petitioner's attorney, if any.

6.11(2) Answer. If pleadings are required, the answer shall be filed within 20 days of service of the petition or notice of hearing, unless otherwise ordered.

- a. Any party may move to dismiss or apply for a more definite, detailed statement when appropriate.
- b. The answer shall show on whose behalf it is filed and specifically admit, deny or otherwise answer all material allegations of the pleading to which it responds. It shall state any facts deemed to show an affirmative defense and may contain as many defenses as the pleader may claim.
- c. The answer shall state the name, address and telephone number of the person filing the answer and of the attorney representing that person, if any.
- d. Any allegation in the petition not denied in the answer is considered admitted. Any defense not raised which could have been raised on the basis of facts known when the answer was written may be waived unless manifest injustice would result.

6.11(3) Amendment. Any petition, notice of hearing or other charging document may be amended before a responsive pleading has been filed. Amendments to pleadings after a responsive pleading has

been filed may be allowed at the discretion of the ALJ or board if applicable. The presiding ALJ or board may impose terms or grant a continuance without terms, as a condition of allowing late amendments.

401—6.12(18) Service and filing of pleadings and other papers.

6.12(1) *When service is required.* Except where otherwise specifically authorized by law, every pleading, motion, document or other paper filed in the contested case proceeding and every paper relating to discovery in the proceeding shall be served upon each of the parties to the proceeding, including the originating agency. Except for the notice of the hearing and an application for rehearing as provided in Iowa Code subsection 17A.16(2), the party filing a document is responsible for service on all parties.

6.12(2) *Methods of performing service.* Service upon a party represented by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person's last-known address. Service by first-class mail is rebuttably presumed to be complete upon mailing, except where otherwise specifically provided by statute, rule or order.

6.12(3) *Filing.* After a matter has been assigned to the division, and until a proposed decision is issued, documents shall be filed with the division, rather than the originating agency. All papers filed after the notice is issued that are required to be served upon a party shall be filed simultaneously with the division.

a. Except where otherwise provided by law, a document is deemed filed at the time it is:

(1) Delivered to the division of appeals and fair hearings, department of general services and date-stamped received;

(2) Delivered to an established courier service for immediate delivery;

(3) Mailed by first-class mail or by state interoffice mail so long as there is adequate proof of mailing; or

(4) Sent by facsimile transmission (fax) as provided in subrule 6.12(3), paragraph “b.”

b. All documents filed with the division pursuant to these rules, except a person's request or demand for a contested case proceeding, (see Iowa Code subsection 17A.12(9)) may be filed by facsimile transmission (fax). A copy shall be filed for each case involved. A document filed by fax is presumed to be an accurate reproduction of the original. If a document filed by fax is illegible, a legible copy may be substituted and the date of filing shall be the date the illegible copy was received. The date of filing by fax shall be the date the document is received by the division. The division will not provide a mailed file-stamped copy of documents filed by fax.

6.12(4) *Proof of mailing.* Adequate proof of mailing includes the following:

a. A legible United States Postal Service postmark on the envelope;

b. A certificate of service;

c. A notarized affidavit; or

d. A certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Department of General Services, Hoover State Office Building, Level A, Des Moines, Iowa 50319, and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed) or (state interoffice mail).

(SIGNATURE)

(DATE)

401—6.13(18) Discovery.

6.13(1) Pursuant to Iowa Code section 17A.13, discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by rules of the agency or by a ruling

by the ALJ, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

6.13(2) Any motion relating to discovery shall allege that the moving party has made a good faith attempt to resolve the issues raised by the motion with the opposing party. Motions in regard to discovery shall be ruled on by the ALJ. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided in subrule 6.13(1). The ALJ may rule on the basis of the written motion and any response or may order argument on the motion.

401—6.14(18) Subpoenas.

6.14(1) Issuance.

a. Pursuant to Iowa Code subsection 17A.13(1), an agency subpoena shall be issued to a party on request unless subrule 6.14(1), paragraph “*d*,” applies. A request may be either oral or in writing. A written request to the division for a subpoena must be received at least three days before the scheduled hearing. The request shall include the name, address and telephone number of the requesting party.

b. Parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses.

c. When authorized by law, an administrative law judge may issue a subpoena on the ALJ’s own motion.

d. When there is reasonable ground to believe a subpoena is requested for the purpose of harassment, or that the subpoena is irrelevant, the administrative law judge may refuse to issue the subpoena, or may require the requesting party to provide a statement of testimony expected to be elicited from the subpoenaed witness and a showing of relevancy. If the ALJ refuses to issue a subpoena, the ALJ shall provide, upon request, a written statement of the ground for refusal. A party to whom a refusal is issued may obtain a prompt hearing regarding the refusal by filing a written request with the division.

6.14(2) Motion to quash or modify.

a. A subpoena may be quashed or modified upon motion for any lawful ground in accordance with the Iowa Rules of Civil Procedure.

b. A motion to quash or modify a subpoena shall be served on all parties of record.

c. The motion shall be set for argument promptly.

401—6.15(18) Motions.

6.15(1) No technical form is required for motions. Prehearing motions, however, must be written, state the grounds for relief and state the relief sought. Any motion for summary judgment shall be filed in compliance with the requirements of Iowa Rules of Civil Procedure.

6.15(2) Any party may file a written resistance or response to a motion within 14 days after the motion is served, unless the time period is extended or shortened by rules of the agency or the administrative law judge. The ALJ may consider a failure to respond within the required time period in ruling on a motion.

6.15(3) The administrative law judge may schedule oral argument on any motion on the request of any party or the ALJ’s own motion.

6.15(4) Except for good cause, all motions pertaining to the hearing must be filed and served at least ten days prior to the hearing date unless the time period is shortened or lengthened by rules of the agency or the administrative law judge.

401—6.16(18) Prehearing conference.

6.16(1) Any party may request a prehearing conference. A request for prehearing conference or an order for prehearing conference on the ALJ’s own motion shall be filed in writing and served on all parties of record not less than ten days prior to the hearing date. A prehearing conference shall be scheduled not less than three business days prior to the hearing date.

Notice of the prehearing conference shall be given by the division to all parties. For good cause the ALJ may permit variances from this rule.

6.16(2) Each party shall bring to the prehearing conference:

- a. A final list of witnesses who the party reasonably anticipates will testify at the hearing. Witnesses not listed may be excluded from testifying.
- b. A final list of exhibits which the party reasonably anticipates will be introduced at the hearing. Exhibits not listed, except rebuttal exhibits, may be excluded from admission into evidence.

6.16(3) In addition to the requirements of subrule 6.16(2), the parties at a prehearing conference may:

- a. Enter into stipulations of law;
- b. Enter into stipulations of fact;
- c. Enter into stipulations on the admissibility of exhibits;
- d. Identify matters which the parties intend to request be officially noticed;
- e. Unless precluded by statute, enter into stipulations for waiver of the provisions of Iowa Code chapter 17A allowed by Iowa Code section 17A.10(2) or waiver of agency rules; and
- f. Consider any additional matters which will expedite the hearing.

6.16(4) A prehearing conference shall be conducted by telephone conference call unless otherwise ordered. Parties shall exchange and receive witness and exhibit lists prior to a telephone prehearing conference.

401—6.17(18) Continuances. Unless otherwise provided, application for continuance shall be made to the ALJ or to the division if an ALJ has not been assigned.

6.17(1) A written application for continuance shall:

- a. Be made before the hearing;
- b. State the specific reasons for the request; and
- c. Be signed by the requesting party or their representative.

6.17(2) If the ALJ waives the requirement for a written motion, an oral application for continuance may be made. A written application shall be submitted no later than five days after the oral request. The ALJ may waive this requirement. No application for continuance will be made or granted ex parte without notice except in an emergency where notice is not feasible. The agency may waive notice of requests for a case or a class of cases.

6.17(3) Except where otherwise provided, a continuance may be granted at the discretion of the ALJ. The administrative law judge shall consider, in addition to the grounds stated in the motion:

- a. Any prior continuances;
- b. The interests of all parties;
- c. The likelihood of informal settlement;
- d. Existence of emergency;
- e. Objection to the continuance;
- f. Any applicable state or federal statutes or regulations;
- g. The existence of a conflict in the schedules of counsel or parties or witnesses; and
- h. The timeliness of the request.

The ALJ may require documentation of any ground for continuance.

401—6.18(18) Withdrawals. The party which requested an evidentiary hearing regarding agency action may withdraw prior to the hearing only in accordance with agency rules. Requests for withdrawal may be oral or written. If oral, the ALJ may require the party to submit a written request after the oral request. Unless otherwise provided, a withdrawal shall be with prejudice.

401—6.19(18) Intervention.

6.19(1) Motion. A motion for leave to intervene shall be served on all parties and shall state the grounds for the proposed intervention, the position and interest of the proposed intervenor, and the possible impact of intervention on the proceeding. A proposed answer or petition in intervention shall be attached to the motion. Any party may file a response within ten days of service of the motion to intervene unless the time period is extended or shortened by the ALJ.

6.19(2) When filed. Motion for leave to intervene shall be filed as early in the proceeding as possible to avoid adverse impact on existing parties or the disposition of the proceeding. Unless otherwise ordered, a motion for leave to intervene shall be filed before the prehearing conference, if one is held, or at least 20 days before the date scheduled for hearing. Any later motion must contain a statement of good cause for the failure to file in a timely manner. The intervenor shall be bound by any agreement, arrangement or other matter previously raised in the case. Requests by untimely intervenors for continuances which would delay the hearing will be denied.

6.19(3) Grounds for intervention. The movant shall demonstrate that:

- a. Intervention would not unduly prolong the proceedings or otherwise prejudice the rights of existing parties;
- b. The movant will be aggrieved or adversely affected by a final order; and
- c. The interests of the movant are not being adequately represented by existing parties; or that it is otherwise entitled to intervene.

6.19(4) Effect of intervention. If appropriate, the ALJ may order consolidation of petitions and briefs and limit the number of representatives allowed to participate in the proceedings. A person granted leave to intervene is a party to the proceeding. The order granting intervention may restrict the issues to be raised or otherwise condition the intervenor's participation in the proceeding.

401—6.20(18) Hearing procedures.

6.20(1) When an ALJ has been appointed as the presiding officer in a contested case, the ALJ may:

- a. Rule on motions;
- b. Preside at the hearing;
- c. Require the parties to submit briefs;
- d. Issue a proposed decision; and
- e. Issue orders and rulings to ensure the orderly conduct of the proceedings.

6.20(2) All objections to procedures, admission of evidence or any other matter shall be timely made and stated on the record.

6.20(3) Parties in a contested case have the right to participate or to be represented in all hearings or prehearing conferences related to their case. Partnerships, corporations or associations may be represented by any member, officer, director or duly authorized agent.

Any party may be represented by an attorney or as otherwise authorized by law.

6.20(4) Parties in a contested case have the right to introduce evidence on points at issue, to cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, to present evidence in rebuttal and to submit briefs.

6.20(5) The ALJ shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly or disruptive.

6.20(6) Witnesses may be sequestered during the hearing.

6.20(7) The ALJ shall conduct the hearing in the following manner:

- a. The ALJ shall give an opening statement briefly describing the nature of the proceeding;
- b. The parties shall be given an opportunity to present opening statements;
- c. Parties shall present their cases in the sequence determined by the ALJ;
- d. Each witness shall be sworn or affirmed by the ALJ or the court reporter, and be subject to examination. The ALJ may limit questioning consistent with Iowa Code section 17A.14;

e. The ALJ has the authority to fully and fairly develop the record and may inquire into the matters at issue and shall receive in evidence the testimony of witnesses and any documents which are relevant and material; and

f. When all parties and witnesses have been heard, parties shall be given the opportunity to present final arguments.

401—6.21(18) Evidence.

6.21(1) The ALJ shall rule on admissibility of evidence in accordance with Iowa Code section 17A.14 and may take official notice of facts pursuant to Iowa Code subsection 17A.14(4).

6.21(2) Stipulation of facts is encouraged. The ALJ may make a decision based on stipulated facts.

6.21(3) Evidence shall be confined to the issues on which there has been fair notice prior to the hearing. The ALJ may take testimony on a new issue if the parties waive the right to notice and no other objection is made. If there is objection, the ALJ may refuse to hear the new issue and may make a decision on the original issue in the notice, or may grant a continuance to allow the parties adequate time to amend pleadings and prepare their cases on the additional issue.

6.21(4) The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should be provided to opposing parties.

All exhibits admitted into evidence shall be appropriately marked and be made part of the record.

6.21(5) Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. The party objecting shall briefly state the grounds for the objection. The objection, the ruling on the objection and the reasons for the ruling shall be noted in the record. The ALJ may rule on the objection at the time it is made or may reserve a ruling until the written decision.

6.21(6) Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony. If the evidence excluded consists of a document or exhibits, it shall be marked as part of an offer of proof and inserted in the record.

401—6.22(18) Default.

6.22(1) If a party fails to appear in a contested case proceeding after proper service of notice, the ALJ may, if no adjournment is granted, proceed with the hearing and make a decision in the absence of the party.

6.22(2) Where appropriate and not contrary to law, any party may move for default against a party who has requested an evidentiary hearing to contest adverse agency action which has already occurred, but has failed to file a required pleading or has failed to appear after proper service.

6.22(3) Where authorized by law, an ALJ may issue a default order.

401—6.23(18) Ex parte communication.

6.23(1) Ex parte communication is prohibited as provided in Iowa Code section 17A.17. Parties or their representatives and ALJs shall not communicate directly or indirectly in connection with any issue of fact or law in a contested case except upon notice and an opportunity for all parties to participate. The ALJ may communicate with persons who are not parties as provided in subrule 6.23(2).

6.23(2) However, the ALJ may communicate with members of the agency and may have the aid and advice of persons other than those with a personal interest in, or those prosecuting or advocating in the case under consideration or a factually related case involving the same parties.

6.23(3) Any party or ALJ who receives prohibited communication shall submit the written communication or a summary of the oral communication for inclusion in the record. Copies shall be sent to all parties. There shall be opportunity to respond.

6.23(4) Prohibited communications may result in sanctions as provided in agency rule. In addition, the department, through the ALJ, may censure the person or may prohibit further appearance before the department.

401—6.24(18) Decisions.

6.24(1) *Proposed decisions.* The ALJ shall issue a proposed decision which includes findings of fact and conclusions of law stated separately. The decision shall be based on the record of the contested case.

The record in a contested case shall include all materials specified in Iowa Code subsection 17A.12(6). This shall include any request for a contested case hearing and other relevant procedural documents regardless of their form.

A ruling dismissing all of a party's claims or a voluntary dismissal is a proposed decision under Iowa Code section 17A.15.

6.24(2) *Review of proposed decisions.* Request for review of a proposed decision shall be made to the agency in which the contested case originated in the manner and within the time specified by that agency's rules. In contested cases in which the director of DGS has final decision-making authority, request for review shall be made as provided in rule 6.25(18).

6.24(3) *Final decisions.* If there is no appeal from or review of the proposed decision, the ALJ's proposed decision becomes the final decision of the agency.

6.24(4) *Agency reports.* The agency shall send a copy of any request for review of a proposed decision to the division. The agency shall notify the division of the results of the review, the final decision and any judicial decision issued.

401—6.25(18) DGS appeals.

6.25(1) A request for review of a proposed decision in which DGS is the final decision maker shall be made within 15 days of issuing the proposed decision, unless otherwise provided by statute. Requests shall be mailed or delivered by either party to the Director, Department of General Services, Hoover State Office Building, Des Moines, Iowa 50319. Failure to request review will preclude judicial review unless the department reviews on its own motion as follows. The department may review a proposed decision upon its own motion within 15 days of its issuance.

6.25(2) A review shall be based on the record and limited to issues raised in the hearing. The issues shall be specified in the party's request for review.

6.25(3) Each party shall have opportunity to file exceptions and present briefs. The director or a designee may set a deadline for submission of briefs. When the director consents, oral arguments may be presented. A party wishing to make an oral argument shall specifically request it. All parties shall be notified in advance of the scheduled time and place.

6.25(4) The director or designee shall not take any further evidence with respect to issues of fact heard in the hearing except as set forth below. Application may be filed for leave to present evidence in addition to that found in the record of the case. If it is shown to the satisfaction of the director that the additional evidence is material and that there were good reasons for failure to present it in the hearing, the director may order the additional evidence taken upon conditions determined by the director.

6.25(5) Final decisions shall be issued by the director.

6.25(6) Requests for rehearing shall be made to the director of the department within 20 days of issuing a final decision. A rehearing may be granted when new legal issues are raised, new evidence is available, an obvious mistake is corrected, or when the decision failed to include adequate findings or conclusions on all issues. A request for rehearing is not necessary to exhaust administrative remedies.

6.25(7) Judicial review of department final decisions may be sought in accordance with Iowa Code section 17A.19.

401—6.26(18) Recording costs. The department may provide a copy of the tape-recorded hearing or a printed transcript of the hearing when a record of the hearing is requested. The cost of preparing the tape or transcript shall be paid by the requesting party.

Parties who request that a hearing be recorded by certified shorthand reporters shall bear the cost, unless otherwise provided by law.

These rules are intended to implement Iowa Code section 18.4.

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